

Senator McCain's Statement
Hearing on Liability Limitation in Tobacco Settlement
February 26, 1998

Welcome. This hearing is one in a series of hearings to examine the proposed global settlement of tobacco litigation. The purpose of today's hearing is to explore those portions of the proposed settlement that would limit the liability of the tobacco companies.

The proposed settlement is built around a central premise: the tobacco companies would receive certain limitations of liability in exchange for payments numbering in the hundreds of billions of dollars and the imposition of various limitations on the advertising, marketing and sale of tobacco products. This trade-off would provide a stream of revenue which could be put to a number of uses, including the funding of health research, counter advertising campaigns, smoking cessation programs, and the compensation of those injured through the use of tobacco products.

Some believe the proposed limits on the civil liability of the tobacco companies are meritorious because they believe the underlying trade-off is a good one. They note the benefits of tobacco advertising, marketing and sales restrictions in the effort to dramatically reduce youth smoking, and the certainty of payments from the tobacco companies. Some also note the relative benefits of this approach in comparison to the limitations of mass tort litigation, especially where bankruptcy is a possibility.

Others believe the proposed limits on liability are unacceptable. They argue that given the history of the tobacco companies, liability restrictions are unwarranted, unfair to litigants, or, perhaps unconstitutional. They believe that there are no instances under which liability limits are acceptable. Even others, however, suggest that some liability limits may be appropriate but the limits proposed are too expansive.

The question of liability limitation is, of course, a pivotal issue regarding the size, scope and direction of tobacco legislation. I want to stress how important it is that the administration take a position and share its views with Congress and the public so that an informed decision can be made based on a full and informed record.

I thank the witnesses for coming to this hearing. I look forward to your testimony and to the discussion that follows.

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